

RULES AND REGULATIONS FOR

EXAMINING AND LICENSING OF HOISTING ENGINEERS

LEGAL NOTICE OF PROMULGATION OF RULES

The Division of Professional Regulation within the Department of Labor and Training, under the authority granted by Chapter 26 of Title 28 of the General Laws of Rhode Island, 1956, as amended, adopts, amends, modifies and rejects general and special rules and regulations under Chapter 35 of Title 42 of the General Laws of Rhode Island as amended and proposes the following amendments:

**As Amended March 2009
April 2013 (proposed)**

Rule 1. TYPES OF LICENSES -

UNRESTRICTED ~~REGULAR~~ LICENSE - qualifies the person to operate the equipment specified on the license, in the category or categories designated in rule #2.

RESTRICTED ~~LIMITED~~ LICENSE -- a ~~restricted~~ limited license is valid only for work performed in the employment of a single employer, within the premises owned and occupied by the employer, and is ~~restricted~~ limited to the type of equipment as specified on the license, in the category or categories designated in rule #2. Municipal, ~~State, and Quasi-State~~ employees, who hold a ~~restricted~~ limited license, must follow the same provisions as above stated ~~restricted~~ limited licensees.

Rule 2. CATEGORIES OF LICENSES -

(A) **FULL LICENSE** -- This license allows the operation of all hoisting and excavating equipment. A full license shall be issued to any person, successfully completing an examination for the same, who previously qualified himself/herself under this chapter, as a hoisting engineer with a valid regular Rhode Island hoisting license for a period of at least two (2) years. ~~Restricted~~ Limited licenses are excluded for purposes of this section.

(B) **CRANE/LATTICE LICENSE** -- This license allows the operation of ~~derricks and lattice boom mobile cranes. It also includes all friction clutch machines, derricks, guy derricks, stiff legs, Chicago booms, and gin poles~~ all lattice boom cranes, derricks, stiff legs, Chicago booms, gin poles, and tower cranes.

(C) **HYDRAULIC CRANE LICENSE** -- This license allows the operation of cranes which the main boom is hydraulically telescopic, elevators, personnel and/or material hoists, manipulators, winches, spider cranes, vibratory hammers, and hydraulic hoists. ~~derricks and lattice boom mobile cranes but hydraulic fluid is necessary for its operation. Said cranes are equipped with telescoping booms with or without ropes. Elevators are also subpart under hydraulic cranes, personnel and/or material hoists.~~

(D) **AERIAL LIFT LICENSE** -- This license allows the operation of ~~machinery~~ a boom type personnel lift that is hydraulically operated enabling the worker to lift himself/herself into an elevated working position, while hoisting and/or carrying lifting material ~~into place.~~

(E) **OVERHEAD ELECTRIC CRANE LICENSE** -- This license allows the operation of machinery which is electrically operated, that moves along an overhead rail that supports a trolley enabling material to be hoisted from one location to another.

(F) **CONVEYOR BELT LICENSE** -- This license allows the operation of ~~mechanical devices on a construction site that has a continuous chain or belt for transporting materials from one location to another.~~ a self-propelled crushing and/or reclaiming equipment, and portable conveyors used to move materials.

(G) **CONCRETE PUMP / SCREEDING EQUIPMENT LICENSE** -- This license allows the operation of ~~truck-mounted~~ hydraulic pumps which pumps ~~concrete~~ cement products from one location to another, and ~~Hydraulic arm machines used in leveling~~ for screeding freshly poured concrete.

(H) CONSTRUCTION FORKLIFT/ TELEHANDLER CONSTRUCTION LICENSE -- This license allows the operation of a hydraulic ~~machine~~ equipment, that does not have a cable winch, but which has forks and/or attachments to lift and/or transport material from one location to another, with an extendable boom ~~and~~ for height and reach.

(I) ~~PAYLOADER/BACKHOE~~ EXCAVATING EQUIPMENT LICENSE -- This license allows the operation of rubber tired, crawler, or robotic equipment, (whose primary function is not designed for hoisting) machinery which has great flexibility in for excavating digging, grading, demolition, crushing and/or reclaiming of material, paving and compaction of earth or asphalt, ~~for rolling of earth and/or asphalt. (Crawler, robotics, or rubber tired equipment).~~

(J) DRILLING RIG LICENSE -- This license allows the operation of truck or track mounted, rotary type machinery used to test and/or excavate the earth.

(K) ~~HYDRAULIC TRUCKS/DELIVERY TRUCK ONLY~~ -- This license allows the operator of the a supply, delivery, company and/or equipment rental company to deliver only unload their product or equipment at their delivery destination only, to the job site, by whatever hydraulic means that is on the transport vehicle ~~delivery truck.~~

(L) ~~CRANE/SIGN/LIMITED~~ SIGN CRANE -- This license allows sign contractors to perform installation and removal of signs only.

(M) ~~SEGMENTAL LIFT HOIST OR SEGMENTAL ERECTING ARM/LIMITED~~ -- This license allows operation of machinery that is used for hoisting and setting precast concrete segments underground in tunnel construction only.

Rule 3. The Division of Professional Regulation shall conduct examinations, ~~for Regular Licenses, not less than three (3) times per year, or every one hundred twenty (120) days. Examinations for Limited License will be conducted every thirty (30) days, or sooner, as the Director deems necessary. The passing score shall be 70 percent.~~

Rule 4. Any person holding a Restricted ~~Limited~~ License may at any time apply for examination to qualify for operation of additional types of machinery. If applicant passes such examination, applicant's license shall be stamped indicating equipment for which he/she qualifies.

Rule 5. A qualified person shall be issued a Restricted ~~Limited~~ License, which shall be valid only for work performed in the employ of a single employer. Any application and license fee for the Restricted ~~Limited~~ License shall be provided by the employer. A Restricted ~~Limited~~ License will terminate when the employee leaves that employ.

Rule 6. Licenses shall show the date of issuance and shall expire on the licensee's birthday every two (2) years ~~each year~~. Licenses may be renewed on or after that date, within a two (2) year period, upon payment of the appropriate renewal fees, plus a twelve-dollar (\$12.00) per month administrative assessment fee for the delinquency period.

If licenses are not renewed in two (2) years, the applicant will be subjected to re-examination.

Clarifying Comment: An individual wishing to reinstate a license that has lapsed for a period under two (2) years will not be permitted to a re-examination without paying late fees or until the two (2) year period has expired.

Any person with a pending violation will not be permitted to take a hoisting engineer examination, until such time as the fine and/or violation has been settled.

Any license expiring while the holder thereof is in the active military, naval, or air service of the United States shall be renewed without further examination, upon payment of the prescribed fee, at any time within four (4) months after the person's discharge from the service.

Rule 7. In case of licenses lost or destroyed, the holder shall notify the Examining Board immediately. A duplicate license may be issued properly marked and indicating the original date of issue upon a notarized application with the necessary fees, filed with the Board of Examiners, stating circumstances surrounding the loss or destruction.

Rule 8. Any individual applicant, ~~for a regular license, who has failed an~~ a first (1st) examination shall not be permitted to reexamine ~~take a second (2nd) examination until after two (2) consecutive monthly exam periods one hundred twenty (120) days from the failure date of to pass his/her last examination. Every retest or new test shall require payment of a separate test fee.~~

Rule 9. Each applicant who has ~~successfully passed~~ attained a score of seventy (70) or higher on the examination shall be issued a ~~certificate of license~~ with the endorsement in the category tested for, by the Division upon receipt of proper ~~on payment of the proper fee.~~

Rule 10. Every person shall have his/her license in his/her possession and on his/her person at all times while engaged in

actual operation of hoisting machinery. No person shall transfer his/her license to another person. No licensee shall voluntarily give up possession of his/her license or place it beyond his/her personal control by pledging or depositing it with another person. Failure to comply with the above shall subject the holder to revocation of his/her license and any other penalties prescribed by law.

Rule 11. All applications for a license must be accompanied by a Medical Certification (DOT medical card), affidavit detailing work history, two (2) photos of applicant, and a fee of seventy-five (\$75.00) ~~thirty-six (\$36.00)~~ dollars, which is not refundable.

Rule 12. The Board of Examiners has the power to disregard any of the above rules and regulations if necessary, during a governmentally declared state of emergency.

Rule 13. In accordance with the Federal Regulations, Section 12 of the Fair Labor Standards Act – (29 CFR - 570), no license shall be granted to a person less than eighteen (18) years of age.

Rule 14. Operator Trainee License:

(A) As used for Rule 14, the following definitions shall apply:

1. "Department" means the Department of Labor and Training;
2. "Division" means the Division of Workforce Regulation and Safety;
3. "Direct Line of Sight Supervision" means that the Trainee can, at all time, physically see the Trainer's hand signs and can physically hear the Trainer give voice commands;
4. "Excavating Equipment" means a Hoisting Pay loader or Backhoe or other excavating equipment as defined by Rule 2(I) of these rules;
5. "Operator Training" means actual filed instruction provided by a Trainer to a Trainee where the Trainee controls the Excavating Equipment;
6. "Trainee" means a person granted an Operator Trainee License by the Department;
7. "Trainer" means a person who holds a valid Rhode Island ~~Payloader/Backhoe/Excavating~~ Equipment License, as defined by Rule 2(I) of these rules or a Full License as defined by Rule 2(A) of these rules, and who is named as a Trainer by the Division for Operator Training of a specific Trainee;

(B) Operator Trainee License:

1. The Operator Trainee License shall allow a Trainer to provide Operator Training to a Trainee in the proper and safe use of Excavating Equipment and shall be valid for a two (2) year period or until such time as the Trainer notifies the Division that he/she is no longer providing Operator Training to the Trainee;
2. A Trainee must sit for the Hoisting Engineer's examination following the expiration of the two-year term of the Operator Trainee License;
3. Applicants who hold an Operator Trainee License and sit for a Hoisting Engineer examination and fail may sit for a second Hoisting Engineer examination after a thirty-day period;
4. A Trainee holding an Operator's Trainee License and who has failed the Hoisting Engineer's examination may request to come before the Board of Examiners of Hoisting Engineers to request an additional one (1) year extension of his/her Operator Trainee License;

(C) Application Process:

1. Persons seeking an Operator Trainee License must make application to the Division;
2. The Division shall approve applications from persons over the age of eighteen (18) upon submission of a complete application for an Operator Trainee License;
3. The application for Operator Trainee Licenses shall include:
 - a. A notarized letter or statement from the owner/lessee of the proposed Excavating Equipment upon which the applicant will receive Operator Training in which the owner/lessee grants the applicant and proposed Trainer permission to perform Operator Training on his/her Excavating Equipment;
 - b. A notarized letter from the proposed Trainer stating that he/she will provide the applicant with Operator Training in compliance with the rules stated herein and that the applicant possesses the competency to train to run Excavation Equipment;
 - c. The applicant's name, address and telephone number;
 - d. The proposed Trainer's name, business name, address and his/her Rhode Island Hoisting Engineer License number;
 - e. A \$75 application fee;

(D) Trainer's Responsibilities:

1. Provide Operator Training to only one (1) Trainee at any given time;
2. Remain in the Trainee's Direct Line of Sight Supervision at all times in which the Trainee receives Operator Training;
3. Directly supervise the Trainee's Operator Training at all times;
4. Insure that the Trainee performs Operator Training only within the Trainee's scope of operational competence and only on the Excavating Equipment approved by the Division;
5. Notify the Division in writing, within three (3) business days from the date when the Trainer ceases providing Operator Training to the Trainee;

(E) Trainee's Responsibilities:

1. Notify the Division in writing within three (3) business days from the date when the Trainer ceases providing Operator Training to the Trainee;
2. Maintain Operator Trainee License during the training period;
3. Shall cease operation of Excavating Equipment when the Designated Trainer is not providing Direct Line of Sight Supervision; (F)

Penalty for Violations:

1. Whoever, being a Trainer or Trainee, violates any provision of this Rule shall be fined not less than three hundred (\$300) nor more than one thousand one hundred and fifty dollars (\$1,150) per offense;
2. Each day in which a violation occurs shall be deemed a separate offense;
3. Persons aggrieved by any proposed penalty for violation of this rule may appeal imposition of said penalty pursuant to R.I.G.L. §28-26-16.

These rules and regulations constitute the entire rules and regulations under Title 28, Chapter 26, of the Rhode Island General Laws. All prior rules and regulations are hereby rescinded.

Adopted by the Board of Hoisting Engineers as formal and official Rules and Regulations pursuant to R.I.G.L. 28-26-4 and 42-35-3.

Copies of the aforementioned proposed amendments to the Rules are available for public inspection at the Rhode Island Department of Labor & Training, Division of Professional Regulation, 70-2, 1511 Pontiac Avenue, Cranston, RI 02920 between the hours of 9:00 a.m. and 3:00 p.m.

In the development of the proposed amendments, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory regulatory provisions; and (3) significant economic impact on small businesses as defined in Chapter 35 of Title 42 of the General Laws, which may result from the proposed amendments. Based on available information, no significant economic impact was identified nor are there any alternative approaches, duplications or overlaps with other state regulations.

Written comments regarding the proposed amendments are welcomed and will be accepted within twenty (20) days of the date of publication of this notice. Please address all comments or inquiries to Joseph Degnan, Assistant Director, Department of Labor and Training, 1511 Pontiac Avenue, Cranston, RI 02920.

In accordance with Rhode Island General Laws § 42-35-3, an oral hearing on these proposed amendments will be granted if requested by twenty-five (25) persons or a governmental subdivision or agency, or by an association having not less than twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of the date of this publication of notice. If a hearing is properly requested, it shall be held on Friday, June 7, 2013 at 2:00 pm., in Bldg. 73-1, 1511 Pontiac Avenue, Cranston, RI 02920.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RI DEPARTMENT OF LABOR AND TRAINING
DIVISION OF PROFESSIONAL REGULATIONS**

**CONCISE SUMMARY OF PROPOSED NON-TECHNICAL AMENDMENTS
TO
RULES AND REGULATIONS FOR
EXAMINING AND LICENSING OF HOISTING ENGINEERS**

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, the following is a concise summary of proposed non-technical amendments:

The regulations have been amended to update language in compliance with current industry practices. The regulations have also been updated in order to extend the license term to two (2) years, increase the license application fee to account for the increased license period, adjust the period for re-examination, and require license applicants to provide proof of medical certification card (DOT medical card).